



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

7 DEC 1994



R00036096

RCRA Records Center

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MEMORANDUM

SUBJECT: Modification of RCRA § 3008(a) Consent Agreement,
The Knapheide Mfg. Co., Docket No. VII-92-H-0008

FROM: Robert W. Richards
Assistant Regional Counsel

TO: Martha R. Steincamp
Regional Counsel

Baerbel E. Schiller
Senior Associate Regional Counsel

This memorandum asks for your help in obtaining formal written approval from the headquarters Office of Regulatory Enforcement for the above modification. Dwight Poffenberger is the staff attorney and Gary Jones is his supervisor.

The Region first requested approval of the modification on August 11, 1994. I have worked diligently and cooperatively with the headquarters staff and have provided everything that has been asked. However, given the status of the case at present, continued delay of the approval is damaging the Region's reputation. Unless the modification is approved promptly the EPA will appear to have negotiated in bad faith with the Respondent.

Approximately two weeks ago, at headquarters insistence, the Region required the Respondent to agree to specific changes to the text of the modification. The changes were to be the final piece for headquarters approval. However, headquarters has now proffered several new questions about the modification, which it has had now nearly four months to review.

One new question is whether a particular SEP is a "sound business practice." The SEP at issue is an audit of the compliance status of the Respondent's new facilities in Quincy, Illinois, and a study to identify additional SEPs for EPA review and approval. Determining whether something is a "sound business practice" calls for a subjective, value judgement. Two other questions seek specific information on what material was in a flood-damaged aboveground product storage tank that the Respondent removed after the flood, and what were the specific hazardous materials that the Respondent moved on behalf of its

neighbors out of the path of the flood. Both are situations where the Region is not contending there is any vertical nexus to the paint waste stream media that was the subject of the violations. Nonetheless, we are providing the information.

However, at this late stage where the Respondent has already agreed to headquarter's requested changes in the text of the modification, headquarters should be strongly encouraged to exercise its value judgements in favor of approving the SEPs, rather than withholding its approval and seeking questionably relevant information that it could have obtained long ago.

cc: Ruben McCullers
Leslie Humphrey